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Marian R. Williams & Melissa W. Burek (2008) JUSTICE, JURIES, AND CONVICTIONS: THE RELEVANCE OF RACE IN JURY VERDICTS, *Journal of Crime and Justice*, 31:1, 149-169, DOI:10.1080/0735648X.2008.9721247

## JUSTICE, JURIES, AND CONVICTIONS: THE RELEVANCE OF RACE IN JURY VERDICTS\*

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### ABSTRACT

*Previous research has suggested that the racial composition of a jury plays a role in the likelihood of conviction of certain defendants. In general, it has been supported that White jury members are more likely to vote to convict Black defendants, while Black jury members are more likely to vote to acquit Black defendants. Prior research has suffered from flaws that could possibly affect these outcomes. For instance, the use of mock juries to examine jury behavior creates artificiality and may not adequately reflect real jury decision-making. Additionally, research on real juries either focuses on certain types of cases (i.e., capital cases) or suffers from problems relating to insufficient or incomplete trial or jury data. As a result, existing jury research has failed to fully capture or explain the factors that are related to jury decision-making in non-capital felony trials. The current research examined case outcomes in real jury trials of defendants charged with non-capital felonies. In particular, the current study analyzed the relationship between the racial composition of the jury and conviction of black defendants. Results indicated a significant relationship between these two variables.*

### INTRODUCTION

In 1992, the acquittal of four white police officers charged in the beating of Rodney King, a black man, led to outrage among the public, who believed that the acquittals were result of the Jack of minority individuals, particularly Blacks, on the jury. Additionally, the acquittal of O.J. Simpson in 1995 by a predominately black jury led many to believe that race, again, played a role in the jury's decision (see Linder, 2001; Coleman, 1996). Both of these cases provide examples in which the racial composition of a jury, whether predominately White or predominately black, is considered a predictor of case outcomes.

Previous research has addressed this issue, examining whether the racial composition of the jury and the corresponding race of the defendant affects the decisions made by juries. In particular, will predominately white juries tend to convict black defendants? Or,

will predominately black juries tend to acquit black defendants? Previous studies have addressed these questions, but these studies have suffered from flaws that make it difficult to adequately gauge jury decision-making. Much research on jury decision-making has utilized mock juries, a convenient and inexpensive method of examining decision-making. Mock juries, however, may not accurately reflect the dynamics of real juries, making their decisions suspect (see Bornstein, 1999; Devine et al., 2001; Diamond, 1997). Additionally, research utilizing real juries has suffered from a number of flaws, including, but not limited to, the use of archival data that does not contain comprehensive trial or jury information. As a result, potentially important control factors are omitted from these studies, providing an incomplete picture of jury decision-making. Additionally, real jury research focuses predominantly on capital trials which, although important, comprise a fraction of the jury trials that actually occur (see Kalven and Zeise, 1966; Bowers, Sandys, and Brewer, 2004).

The present study attempted to remedy these issues, examining whether the racial makeup of a real jury influenced verdicts in noncapital trials involving black defendants. The data that were examined contained detailed information about the trials as well as information about juror perceptions of that information. Previous research was helpful in providing a framework for study, but the current study expands on this research and provides a more complete assessment of jury decision-making.

## **THEORETICAL BACKGROUND**

The easy and obvious reason for discrimination on the part of jurors is racism, but this is too simplistic and does not account for other relevant factors that influence juror decision-making. Outright discrimination due to racism is difficult to prove in the criminal justice system; in fact, many studies point to *disparity* rather than *discrimination* as an explanation for race differences in decision-making (see e.g. Baldus, Woodworth, and Pulaski, 1990). In effect, there is evidence that Black defendants are treated differently than White defendants in a number of respects, but whether this is due to racism or other race-neutral factors (such as offense seriousness) is not clear.

One of the explanations for jury behavior is called in-group bias. In-group/out-group behaviors have been explored in many studies, primarily in the social-psychological literature, but were seen in earlier works by Merton (1957) and others. According to Dovidio and Gaertner, individuals will tend to come together based on shared traits, such as race, and will tend to express beliefs and attitudes that are similar to each other. In addition, these individuals, though part of a group, still perceive themselves as individuals within that group; they are not defined by membership in that group. On the other hand, perceptions of members of the out-group are just the opposite; outgroup members are perceived as homogenous and sharing the same attitudes and beliefs: "they are all alike, whereas we are quite diverse" (1986: 131 ). The authors continued, stating that individuals have more favorable impressions of in-group members and tend to have different explanations for similar behaviors committed by both in-group and outgroup members. Other authors state that the mere perception that one is part of a group (and that others are not) is enough for those in the ingroup to act differently

toward out-group members. Also, the more members of the group that are similar, the more likely the members of that group will identify with that group (Lau, 1989).

With regard to juror behavior, this in-group/ out-group comparison is quite relevant. Go lash (1992) stated that the closer the jury is to a defendant's social context, the more likely the jury will understand the defendant's conduct. Of course, the opposite is significant as well, and this was evidenced by Fleury-Steiner (2002). For example, the author interviewed members of death-qualified juries and asked them questions about the case, the defendants, the victims, etc. In one interview, a White female juror, who served on a jury with a Black defendant, stated that, " ... I just saw him as a loser from day one ... [part of a] Black group who grew up with no values, ideals, no authority, no morals, no leadership ... " (2002:557). Fleury-Steiner (2002) attributed this to what he called a "White racial dialectic:" by treating the defendant as inferior and unlike her, the White juror was reinforcing her White superiority.

In another interview, a White male, who served on the same jury, discussed his experience with the lone Black individual on the jury. The Black juror was the only juror who did not initially vote for a death sentence and the White male juror was trying to change her mind. In their exchange, the White juror told the Black juror, " ... I know you were having trouble, the fact that it is one of your brothers ... " (2002:567). Fleury-Steiner (2002) attributed this attitude to a form of paternalism-being sympathetic while at the same time being slightly coercive in trying to get the Black juror to change her mind.

In-group/out-group comparisons do not only apply to Whites' perceptions of Blacks. Wishman claimed that Black jurors may be less likely to convict Black defendants because of a "feeling of brotherhood" (1986: 116). Similarly, Fleury-Steiner's (2002) interviews with Black jurors indicated less of a willingness to impose the death penalty on Black defendants. The interviews also indicated that Black jurors were consistent in their impressions of the White jurors. One Black juror stated that the White jurors had a, " ... totally different perspective of what happens in the inner-city ... [that] if it's a Black thing then its automatic guilty" (2002:570). Another Black juror stated that, " ... they felt like these two Black boys took a White man's life: We're going to bum them. That's the impression I got from a lot of the jurors ... " (2002:570). This may not be evidence of a "feeling of brotherhood" towards Black defendants but more of a collective mistrust of White jurors. Regardless of the race of the jurors, the ingroup/out-group comparison seemed to hold.

In addition to the in-group/out-group issue, some researchers stated that circumstances within a trial will affect how jurors will rule. As mentioned earlier, Sommers and Ellsworth (2000) examined mock jurors in trials in which the "race card" was or was not played. In trials in which race was an issue, White jurors did not treat White or Black defendants differently. In trials in which race was not an issue, however, Whites were biased in favor of white defendants. The authors speculated that racially charged trials received more scrutiny from others, so White jurors will try their best to appear non-biased. When trials were not scrutinized as closely, their prejudices will surface. Black

jurors were more lenient towards black defendants regardless of the racial issues in the trial. The authors suggested that black jurors may feel that all trials with black defendants are "race-salient" and will try to correct injustices they perceive in the system (Sommers and Ellsworth, 2000).

One final issue to be addressed concerns the liberation hypothesis.

According to Kalven and Zeisel (1966), jurors will usually rely on legal factors such as strength of evidence when rendering a verdict, regardless of the race of the defendant. If the evidence is not very strong, however, jurors will then rely on extra-legal factors when rendering a verdict. This allows a juror's individual opinions to enter into the decision, raising the possibility that irrelevant factors such as race will be a deciding factor.

## **LITERATURE REVIEW**

In a 1966 study of jury verdicts, Kalven and Zeisel stated that White jurors are more likely to convict Black defendants, and this research has been both supported in subsequent research (e.g., Hymes, Leinert, Rowe, and Rogers, 1993; Johnson, 1985; Klein and Creech, 1982) and refuted (e.g., Mazzella and Feingold, 1994; Skolnick and Shaw, 1997). In addition, some research has shown that Black jurors may be less likely to convict Black defendants (Skolnick and Shaw, 1997). Much of the research on this topic has focused on the behavior of White jurors judging Black and/or White defendants, perhaps because White juror majorities are typically the norm in most trials (Sommers and Ellsworth, 2001). Sommers and Ellsworth (2001) and Fukurai, Butler, and Krooth (1993) stated that all-White or predominantly white juries are the norm due to the historic exclusion of blacks from jury service, in the form of discriminatory practices that prevent them from serving, and the smaller pool of black jurors in the community. Therefore, it is difficult to assess the attitudes of black jurors when there are so few of them compared to white jurors.

According to Sommers and Ellsworth (2001), white juror bias is more dangerous than black juror bias, perhaps due to the fact that whites are in a better position to affect policy and have their concerns heard. It is argued that prosecutors, historically and currently, play upon white juror prejudices-Le., "play the race card"-to get convictions of black defendants (Kennedy, 1997). Whether prejudice or evidence plays the largest role in juror decision-making is a question that has yielded mixed results in the research.

Since the mid-1950s, over 200 empirical studies have been published on jury decision-making. Of these, over 65 percent examined the influence of a variety of factors on criminal and civil case outcomes using mock jurors and/or mock juries comprised mostly of college students or members of the community who would potentially be seated on a jury (Devine, Clayton, Dunford, Seying, and Pryce, 2001). The remaining 35 percent studied jurors from actual trials, used archival data, relied on survey results from ex-jurors, assessed subjects from field experiments, or a combination thereof.

### *Mock Jury Research*

Utilization of mock juries is the norm in jury research and, as stated above, research is mixed. According to Sweeney and Haney (1992), mock juries tend to generally favor White defendants over black defendants. On the other hand, Mazzella and Feingold (1994), in their meta-analysis of twenty-nine mock jury studies, found that White and black defendants were treated fairly equally. Regardless, one of the benefits of mock juries is the ability to manipulate certain aspects of the trial, for example, defendant or victim race, relevant facts, and racial make-up of the jury, in order to examine potentially different outcomes and attitudes between mock juries. By doing this, researchers are able to gauge the attitudes of certain jurors, such as black jurors, who may not be represented in actual trial juries (Devine et al., 2001). Several studies have altered the race of the defendant in mock juries in order to gauge juror attitudes. Johnson (1985) reviewed numerous mock jury studies in which the race of the defendant was varied but other factors were held constant. General results indicated that white jurors were more likely to convict black defendants than white defendants. Relatedly, Skolnick and Shaw (1997) examined juror preferences in a mock trial that resembled the O.J. Simpson trial, but the race of the defendant varied between the mock juries studied. Results indicated that white jurors indicated similar outcomes between black and white defendants, but black jurors were more likely to rule in favor of black defendants more often.

Other mock jury studies have manipulated the race of the defendant and victim to gauge interaction effects; for example, are black defendants treated more severely if their victim is white? Klein and Creech (1982) examined a white mock jury and measured the probability of guilt based on the race of the defendant and victim. When the authors provided identical descriptions of the crimes with either a white or black defendant, the jurors were more likely to convict the black defendant, especially if the victim was white. The white victim effect continued if the defendant was also white. The lowest probability of conviction occurred in situations involving a white defendant and black victim. This pattern continued in research by Foley and Chamblin (1982) and Hans and Vidmar (1986). Similarly, Hymes et al. (1993) found that both black and white defendants were more likely to be convicted if their race differed from the victim's race. There was a higher likelihood of conviction for black defendants whose victim was white, however. On a different note, Ugwuegbu (1979) examined the responses of black mock jurors in a case that varied the defendant's and victim's race. The author's results indicated that the black jurors viewed the white defendants more negatively than black defendants. Offenders who victimized blacks were also viewed more negatively.

In other mock jury research, researchers altered the circumstances of the case to examine juror preferences. Faranda and Gaertner (1979, cited in Gaertner and Dovidio, 1986) examined white mock jurors in a study that introduced inadmissible evidence during the trial. When no inadmissible evidence was introduced, the jurors did not distinguish between black and white defendants. On the other hand, when jury members heard evidence that was damaging to the defendant, but was instructed to ignore it, the jurors were more likely to convict black defendants. The jurors indicated that they took into account all of the evidence, even if it was ruled inadmissible. If this was truly the case, according to the authors, the jurors should have treated black and

White defendants similarly if both defendants were subject to the same equally damaging testimony.

Mock jury research allows for inexpensive and relatively easy examinations of juror attitudes, while actual jury research can be fairly expensive and time-consuming. A primary criticism of mock juror/jury studies, however, relates to the artificiality of the task in which, more often than not, participants are asked to read a transcript from a trial or case vignette, or video/audio taped trial, sometimes real, sometimes simulated, and render a verdict (Bornstein, 1999; Devine et al., 2001; Diamond, 1997). Key to this idea of artificiality is the threat to external validity since the behaviors and decisions of mock participants in simulated cases may not be representative of what occurs in actual court cases. For example, evidence such as witness testimony in a mock trial is typically shorter in duration and the number of witnesses utilized is usually less than that presented in actual trials; therefore, mock jurors/juries are not as affected by the difficulty of trying to recall and carefully weed through the mass of information relied upon to render a just verdict as are real juries/jurors (Costabile and Klein, 2005). In addition, mock jurors usually volunteer to serve, something actual jurors rarely do, and the mock trial itself is not as disruptive to the lives of mock jurors as a real trial is to actual jurors. Relatedly, in mock juries, the participants understand that their decisions lack real-world consequences; thus, mock jurors may take their jobs less seriously and not put in enough time when making their decisions (Bornstein and McCabe, 2005).

A final issue regarding mock jury research is the heavy reliance on college students as convenient subjects. While some researchers have found that the differences between student populations and non-student populations are minimal (see Bornstein, 1999), others have pointed out that, demographically, students are not representative of eligible juror populations (Diamond, 1997; Kalven and Zeisel, 1966; Osborne, Rappaport, and Meyer, 1986). For example, Sears (1986) pointed out that college students tend to be more influenced by conformity pressures, have higher cognitive abilities, and tend to obey authorities. As a result, when confronted with activities that require group decision-making, college students are more likely to respond homogeneously.

### *Actual Jury Research*

In contrast to mock jury studies, research on actual jury trials is not as plentiful. One of the primary reasons is that actual jury trials do not occur very often and it takes a good amount of time to accumulate a large enough sample size for analysis. Despite this, Devine et al. (2001) contended that actual juries are more generalizable and realistic, giving a glimpse into how justice is truly dispensed in the criminal justice system.

Kalven and Zeisel examined 3500 jury trials throughout the country and indicated that all-white juries are more likely to convict black defendants than white defendants. One of their measures was a "sympathy index," which gauged which defendant characteristics garnered the most sympathy from these juries. Young and female defendants elicited the most sympathy and black defendants elicited the least,

suggesting that, "these defendants appear on balance unattractive to the jury" (1966: 210).

Bowers, Sandys, and Brewer (2004) examined 353 capital sentencing trials in which the defendant was black and the victim was white. The trials were examined and jurors were then questioned on their perceptions of the process and the actors involved. Results indicated that whites were seven times more likely to vote death. In addition, the white jurors were less receptive to mitigating circumstances and black jurors were more skeptical of the entire sentencing process. Bowers et al. (2004) indicated that, when there were blacks on the jury, in particular, at least one black male, conflict between the jurors increased and mitigating circumstances were considered.

Actual trials enable participants to become more familiar with defendants, witnesses, courtroom actors, and fellow jurors, and more readily permits the observation of legal and applicable extra-legal factors on which to base their verdict (Diamond, 1997). In fact, Lerner and Tetlock (1999) argue that, when decision-makers know there are consequences to their actions, their decision-making process is more rational and complex and they take the time to ensure that the correct decision has been made.

Although actual jury research is preferable to mock jury research, it suffers from flaws as well. As mentioned earlier, actual jury research tends to rely on archival data, surveys of former jurors, or field experiments, all of which can be problematic. With regard to archival data, there may be incomplete information in case files, leading researchers to either omit important data from analyses or to construct hypothetical scenarios. For example, Taylor and Hosch (2004) examined jury verdicts in actual trials and utilized archival data that included police reports, court documents, indictments, and criminal histories. Although seemingly comprehensive, the authors did not have actual trial data available to them. The authors wanted to examine the quality of the prosecutor's evidence at trial, but did not have any information about what evidence was actually presented. To compensate, the authors examined evidence from the archival information they had and created a variable that represented, in their view, evidence that *could have* been presented by the prosecutor at trial. This measure is problematic, as it does not account for what the prosecutor put forward to the jury. Thus, it was an estimate of not only what the prosecutor presented at trial, but also an estimate of how the jury viewed such information. The present study analyzes the evidence that was presented by prosecutors at trial, not what could have been demonstrated, which is a marked improvement over previous analyses.

Another potential problem with actual jury research is a reliance on surveys of former jurors. These studies ask jury members about their experiences and perceptions of the trial. These studies generally do not contain any trial data and rely exclusively on a juror's memory of the trial. Devine et al. (2001) conducted such a study and indicated that juror perceptions could easily be distorted by causal ordering problems and memory issues. Though important research for gauging juror experiences, it provides an incomplete picture of their decision-making because it has little to no information about the trial or other trial participants. While the current study also relies on surveys of

jury members, respondents commented on the case at the onset through verdict thereby mitigating the potential for confounding due to questionable recall of pertinent information.

A final concern regarding actual jury research is the extensive use of capital trials. Capital trials are popular research subjects due to the seriousness of the charges against the defendant and the historical race problems that have plagued capital juries. Despite this, capital jury trials are much different than non-capital jury trials. Jury selection, trial procedure, and sentencing in capital trials operate by a different set of rules than in non-capital trials. Capital cases also receive much more scrutiny than non-capital cases, so jury members may behave differently in capital cases (see Sommers and Ellsworth, 2000). Cases analyzed herein were non-capital in nature and therefore broaden the knowledge base concerning racial composition of juries and conviction outcomes.

With the availability of an existing dataset that could remedy many of the aforementioned problems, we hypothesized that juries composed of a higher percentage of Whites are more likely to convict non-White defendants. Although White-majority juries are the norm, having a sizable percentage of Blacks on a jury (for instance, more than three) could educate White jurors on the circumstances faced by Black defendants. Some feel this is one of the reasons why OJ. Simpson was acquitted by a predominantly Black jury and the Black jurors in the study by Fleury-Steiner (2002) seemed to agree that White juror ignorance was a problem.

## **DATA AND METHODS**

The data in this study were originally collected by Hannford-Agor, Hans, Mott, and Munsterman (2001 ), whose primary aim was to study the factors that influenced hung jury decisions in four major U.S. jurisdictions: Maricopa County, AZ; Los Angeles, CA; Bronx, NY; and Washington, DC. The researchers collected information regarding case characteristics, case outcomes, and judge, attorney, and juror views of the case. Information was collected during the course of the trial (regarding the case characteristics and views of judges and attorneys) or as soon as the jury was released (for juror views) to ensure timely information and to reduce the risk of memory problems. For purposes of the current study, data regarding case characteristics and case outcomes were utilized. Specifically, information such as defendant and victim demographics, case type, strength of evidence presented, type of counsel utilized by the defendant, jury selection procedures, racial make-up of the jury, and case outcome were considered.<sup>1</sup>

This dataset is unique in that it contains data from actual jury trials, not mock jury trials that much previous research utilized. In addition, it contains extensive and timely information from multiple jurisdictions and different types of crimes; most prior research only focused on one jurisdiction or less frequent, but celebrated, crimes such as capital cases. One drawback, however, is found with the use of any secondary data. Because the current authors did not collect and code the data, there may be missing data or



coding errors that cannot be identified. Although these issues are of concern, the current authors felt that the uniqueness of the data overcame any potential problems the data may contain. Table 1 contains the variables used in the present study. The study examined the likelihood of conviction of black defendants; black defendants comprised the majority of defendants across the jurisdictions under study (approximately 60 percent). White defendants only comprised approximately 10 percent of defendants, leaving their numbers too small for any definitive analyses.

### *Dependent Variable*

The dataset contains information on three different case outcomes: acquittal, conviction, and hung jury. The current study focused on conviction-did a conviction result? This variable was coded as 0 for "no", 1 for "yes." Acquittals and hung juries were counted in the "no" category. While it may be typical for many defendants to face multiple charges, the dataset contained a number of missing values for counts beyond one, including the lesser included offenses for the cases under study. This section of the survey was completed by court clerks and/or judges, so there was no reasonable assumption that these parties were in error during the submission of the case data or that there was some covert omission of salient information. With this being the case, only outcomes related to count one were analyzed, as these data were found to be the most valid and reliable.

**Table 1**  
**Variables in the Analysis**

| Variables   | Descriptive Statistic        |
|---|------------------------------|
| <i>Victim Race</i>  |                              |
| White = 0   | 8.0%                         |
| Non-White = 0   | 92.0%                        |
| <i>Victim-Defendant Relationship</i>  |                              |
| Stranger = 0  | 76.0%                        |
| Non-Stranger = 1  | 24.0%                        |
| <i>Quantity of Evidence (Number of<br/>Prosecutor Witnesses and Exhibits)</i> | Mean = 22<br>Median = 14     |
| <i>Strength of Prosecution's Case</i>   |                              |
| Mean Strength of Prosecutor's Case  | 4.554                        |
| Mean Strength of Defense's Case   | 3.446                        |
| Mean Ratio of Prosecution's Case<br>Relative to Defense's Case                | 1.556                        |
| <i>Case Type-Violent</i>  |                              |
| No = 0  | 52.0%                        |
| Yes = 1   | 48.0%                        |
| <i>Attorney Type</i>  |                              |
| Appointed = 0   | 83.0%                        |
| Retained = 1  | 17.0%                        |
| <i>Percent White Jury</i>   | Mean = 45.0%<br>Median = 42% |
| <i>Maricopa County</i>  | 56.0%                        |
| <i>Los Angeles</i>  | 28.0%                        |
| <i>Bronx</i>  | 42.0%                        |
| <i>Washington, D.C.<br/>(Reference Category)</i>                              | 88.0%                        |
| Total N   | 178                          |

### *Independent Variable*

The primary variable of interest was the racial-make-up of the jury. Previous studies primarily focused on the individual jury member and what factors he or she considered important in his or her decision. The current study was more interested in decisions by the jury as a whole and examined the percentage of White jurors on the jury. This is based on a study conducted by Perez, Hosch, Ponder, and Trejo (1993), who examined the relationship between the ethnic composition of a jury and trial outcomes. The hypothesis was that juries with a higher percentage of whites were more likely to convict non-White defendants. This variable was coded as a ratio variable: *percentage of Whites* serving on the jury.

### *Control Variables*

A number of control variables were utilized to take into account their potential effect on the dependent variable. *Case type* may play a role in convictions, in that the more

serious the offense (i.e., violent), the higher the likelihood of conviction. Thus, this variable examined whether a defendant was charged with a violent offense for count one. *Criminal history* also may play a role; jurors may be more willing to convict a defendant if they know the defendant has a criminal record. This was a dichotomous variable that examined if jurors were aware of the defendant's criminal record.

The weight of the evidence may play the largest role in conviction decisions-if the prosecutor's evidence is strong, the more likely a conviction may occur (Kalven and Zeisel, 1966). Measuring the weight of the evidence can be rather subjective, however; having more witnesses or exhibits during a trial does not necessarily imply that the quality of the evidence is strong. Harmon and Lofquist (2005) posit that the use of multiple types of evidence by the prosecutor increases the likelihood of conviction, as jurors may be persuaded by quantity instead of quality. To measure this variable, two variables were utilized; the first was a ratio variable that gauged the *quantity of evidence* at trial - the number of prosecution witnesses and exhibits during the trial.

The second variable regarding the prosecutor's case was a subjective determination by individual jury members of the *strength of the prosecution's case* relative to the strength of the defense's case. One dataset in the original study asked jury members about their experiences serving on a jury. Each trial was assigned a number by the researchers and each trial's jury members were identified based on the trial on which they served. When asked about their perception of the prosecutor's and defense's case, jury members indicated strength on a scale of one to seven, with one being "consistently weak" and seven being "consistently strong." For purposes of this study, each juror's answers for each trial was calculated to provide a mean indicator of strength for both the prosecution and defense in each trial. This was converted into a ratio-a ratio over one indicated that jurors felt the prosecutor's case was stronger, while a ratio below one indicated that jurors felt the defense's case was stronger.

The *victim's race* was utilized due to research that shows that defendants who victimize Whites are treated more severely by the criminal justice system (see Kleck, 1981; Williams and Holcomb, 2001). This was a dichotomous variable that compared White victims to non-White victims. The victim's *relationship* with the defendant could also affect case outcome, with jurors treating stranger victimizations more harshly than non-stranger victimizations (see Williams and Holcomb, 2001). Since there are concerns about the lack of victims (or readily identifiable victims) for drug and property crimes, only cases in which a victim was identified were examined.

*Type of attorney* may play a role in conviction, in that certain attorneys (usually assigned attorneys) are not able to prepare a defense as well as private attorneys due to caseload pressures. On the other hand, assigned attorneys may be more successful in defending their clients, due to their greater participation in the courtroom workgroup and the amount of experience gained from working in criminal courtrooms (see generally Hanson and Chappner, 1991; Lewis, 1964; Nardulli, 1986; Williams, 2002). Additionally, since Blacks are more likely to utilize assigned attorneys (see Holmes,

Hosch, Daudistel, Perez, and Graves, 1996), it was necessary to include it as a control variable.

Finally, a control for *site* was important to ensure that the results were not due to factors occurring in one or two jurisdictions. Dummy variables were created for Los Angeles, Maricopa County, and the Bronx to be compared to the final site, Washington, DC.<sup>2</sup> Since Washington, D.C. has a high black population (60 percent), juries in this jurisdiction may be more or less likely to convict black defendants, depending on the make-up of the jury. In effect, White jurors in areas with a large black population may experience more in-group/out-group bias and convict black defendants more readily. On the other hand, areas with a large black population likely increase the odds of more blacks serving on juries, therefore, reducing the likelihood that blacks will be convicted (see Blalock, 1967; Golash, 1992; Wishman, 1986). In the current study, a bivariate correlation indicated a slight negative relationship between Washington, DC and likelihood of conviction for black defendants (-.138,  $p < .05$ ).

## RESULTS

Table 2 provides the model for logistic regression analyses involving the primary variable of interest (*Percent White*) and the likelihood of conviction of Black defendants for other relevant variables.

**Table 2**  
**Logistic Regression Analysis with Black Defendants**

| Variable             | B      | S.E.       | Odds Ratio |
|----------------------|--------|------------|------------|
| Victim Race          | .328   | .333       | 1.338      |
| Relationship         | .292   | .264       | 1.338      |
| Criminal History     | .817   | .699       | 2.263      |
| Quantity of Evidence | .039   | .019       | 1.039**    |
| Strength of Case     | .947   | .688       | 2.578      |
| Violent              | -.163  | .674       | .849       |
| Attorney             | 2.578  | 1.288      | 13.173***  |
| Los Angeles          | 1.680  | 1.059      | 5.366      |
| Maricopa             | 2.881  | .924       | 17.840***  |
| Bronx                | .695   | .893       | 2.005      |
| Percent White        | .034   | .014       | 1.035***   |
| Constant             | -6.412 | 2.496      |            |
| -2 Log Likelihood    | 65.999 |            |            |
| Model Chi-Square     | 27.352 | $p = .004$ |            |

N=178; \*\* $p < .05$ ; \*\*\* $p < .01$

The primary variable of interest, *Percent White*, was significant at the .01 alpha level, indicating the juries composed of a higher percentage of whites were slightly more likely to convict black defendants (1.035 odds ratio). *Quantity of evidence* was significant at the .05 alpha level (1.039 odds ratio), as is *Type of attorney* (13.173 odds ratio). The type of attorney variable suggested that having a private attorney increased the likelihood of conviction of black defendants. *Maricopa* was significant at the .01 alpha

level-black defendants were more likely to be convicted in Maricopa County compared to Washington, DC (17 .840 odds ratio).

## DISCUSSION

The present study attempted to build upon previous research by examining the behavior of actual juries in non-capital felony trials to determine if bias exists in the conviction of black defendants. As noted earlier, a major flaw in previous studies was the use of mock juries, which often did not reflect the true nature of criminal trials and jurors. Additionally, actual jury research does not examine non-capital felony trials extensively and other flaws in the research may mask the significance of factors that are not included. By utilizing extensive trial data and judge, attorney, and juror views in actual jury verdicts from non-capital felony trials, it was hoped that a better gauge of jury behavior could be achieved.

General results indicated that the percentage of whites on a jury was related to the likelihood of conviction of black defendants (at the  $p < .01$  alpha level). That juries with a higher percentage of whites serving on them were more likely to convict black defendants suggests that there was some "out-group bias" occurring (see Dovidio and Gaertner, 1986), even when controlling for the strength of the prosecutor's case. It was argued by Kalven and Zeise (1966) that the liberation hypothesis frees jurors to consider extra-legal variables in their decision-making when legal variables, such as strength of the prosecutor's evidence, are not strong. The out-group bias exhibited by White juries toward Black defendants still existed, however, despite the control for strength of prosecution evidence.

Of interest was the significance of one of the dummy site variables, *Maricopa*, in comparison to the reference variable, Washington, DC. As mentioned above, areas with a higher black population may decrease the likelihood of conviction of black defendants. The possible explanation for this could be that there may be a bigger pool of potential jurors who are black, thereby increasing the likelihood of more blacks serving on a jury. Golash (1992) and Wishman (1986) contended that juries may have a better understanding of defendants from the same social context; thus, decreasing the likelihood of conviction of black defendants. Due to this, Washington, DC was the reference category for the site variable. Of the four jurisdictions under study, Maricopa County had the smallest black population (4 percent), perhaps making it less likely that black jurors will serve. Whites (66 percent) and Hispanics (25 percent) comprised the majority population in this jurisdiction (U.S. Census Bureau, 2000) and it could be argued that juries in this jurisdiction were more likely to convict black defendants due to the "in-group" bias discussed above. According to Abwender and Hough (2001), Whites and Hispanics may view themselves as part of the same "in-group," thus distinguishing themselves from blacks. As a result, if whites and Hispanics were more likely to serve on juries in Maricopa County, their verdicts may have reflected in-group bias when judging black defendants.

Another interesting finding was the significance, though slight, of type of attorney for cases involving black defendants. Having a private attorney increased the odds of incarceration for these defendants; this could indicate support for the contention that an appointed attorney's experience and relationship with the courtroom workgroup benefited defendants.

Although the use of secondary data raises concerns about the strength of the results, it is difficult and quite expensive to gather data on jury trials, which simply do not occur that often in the criminal justice system. During the course of a criminal case, most defendants filter out of the system due to a dismissal of charges or plea agreements. An insightful study would be to follow cases that go to trial from the beginning of a case (arrest or shortly thereafter) to sentencing. This is extremely difficult and expensive, however. One reason for this is that cases that are originally scheduled to go to trial will likely result in postponements, extending the time and money needed for researchers to observe. In addition, some of these cases will be dismissed prior to trial, rendering the early observations somewhat useless if trial outcomes are being examined (although other useful information could be gathered from these early stages). Finally, since trials do not occur often, it would take months, even years, to observe enough trials to get a usable sample, especially in suburban and rural areas that have trials less often than urban areas. It is the authors' contention, therefore, that the use of the existing data in the sample was an acceptable means of gathering information about a process that, although rare in the system, is critically important for dispensing "justice" in this country.

## NOTES

1. For more information on the data collection procedures, v1s1t  
[http://www.ncsconline.org/WC/Publications/Res Juries\\_ HungJ uriesChap  
3Pub.pdf](http://www.ncsconline.org/WC/Publications/Res%20Juries_HungJuriesChap3Pub.pdf)

2. While we would have wanted to include more areas of the country, such as the South, the use of secondary data precludes analyses of such data.

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